Supreme Court, U.S.
FILED
AUG 19 1985
JOSEPH F. SPANIOL, JR.
CLERK

85-425

1 PART I COVER PAGE

CASE NUMBER

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER 1985

JOHN E. REYNOLDS, III PETITIONER

V.

STATE OF FLORIDA RESPONDENT

ON APPEAL FROM THE

SUPREME COURT OF THE STATE OF FLORIDA

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES SUPREME COURT

PREPARED PRO SE BY:

JOHN E. REYNOLDS, III

P.O. Box 20232

Birmingham, Alabama 35216

Phone: (205) 822-8699

40 pp

PART II QUESTIONS PRESENTED FOR REVIEW

All of the following questions relate to the circumstances of Petitioner's case, under appeal in this Writ of Certiorari to this Court. Filed pro se.

With reference to the four questions that follow Petitioner asks this Court: Has the State of Florida or any of its courts violated the Fifth, Sixth and Fourteenth Amendments to the United States Constitution? Have any other Constitutional amendments been violated?

(1) Does the State of Florida have the Constitutional right to deny counsel to indigent defendants, charged with misdemeanor violations of statutes that carry a possible jail sentence, simply because a Florida judge issues a ruling in advance of trial that he will not impose a jail sentence on defendant in the event of a guilty or nolo contendre verdict?

Can the State of Florida or Florida criminal courts constitutionally base such denials of counsel on Rule 3.111 of the Florida Rules of Criminal Procedure? Is Rule 3.111 constitutional?

Can a Florida criminal court judge realistically promise a defendant charged with a misdemeanor, such as Petitioner, that he, the judge, will not jail the defendant? If probation is imposed on a guilty defendant as part of the sentence, would not a probation violation result in incarceration?

(2) Did a Florida court system have the constitutional right to enforce Rule 3.111, referred to above, by invoking the rule against me in a discriminatory manner, while not consistently invoking it against other indigent defendants charged with the same offense? In other words, should two indigent Florida defendants,

accused of the same misdemeanor offense (Florida Criminal Statute 316.193) and whose circumstances are similar, be treated differently? Should one indigent defendant be permitted a public defender, while the other indigent defendant (myself) is not permitted a public defender?

(3) Under Florida Statutes relating to "State Attorneys and Public Defenders", Section 27.56 is titled: "Assistance; lien for payment of attorney's fees and costs." Section 27.561 is titled: "Effect of nonpayment."

With reference to Section 27.561, Petitioner (former defendant) asks this Court: Was I justified in my fear that Florida courts might unconstitutionally imprison me for contempt of court should I have been represented by a Florida public defender and not have complied with repayment provisions of Section 27.561?

Since I was found guilty of the offense, if I had been represented by a public defender and was subsequently financially unable to repay the cost of counsel, would any resultant incarceration of me without "due process" have been constitutional? Therefore, was I justified in refusing, on constitutional grounds, to sign an agreement that would have bound me to the provisions of this Florida law and could have resulted in my imprisonment for future non-repayment of services?

(4) Should the defendant in a criminal matter be allowed defense by an attorney who is well-versed in the case details and who undoubtedly had adequate case preparation time? Would representation of defendant by an attorney with little preparation time and who was not thoroughly prepared for the defense be a violation of the defendant's constitutional rights?

(Preceding question is asked with reference to Petitioner's case in which substitution of a non-affiliated attorney was ordered by presiding judge less than two hours before defendant's trial.)

Should a judge in a criminal case be constitutionally obligated to order a trial continuance in circumstances such as the above when the preparedness of the new defense attorney might be in question, through no fault of defendant?

PART III TABLE OF CONTENTS

1. PART I. COVER PAGE. Page 1.
2. PART II. QUESTIONS PRESENTED FOR REVIEW. Page 2.
3. PART III. TABLE OF CONTENTS. Page 7.
4. PART IV. TABLE OF AUTHORITIES. Page 8.
5. PART V. OPINION. Page 9.
6. PART VI. JURISDICTION. Page 10.
7. PART VII. CONSTITUTIONAL PROVISION INVOLVED. Page 10.
8. PART VIII. STATEMENT OF CASE. Page 11.
9. PART XIX. REASON FOR GRANTING WRIT. Page 31.
10. PART X. CONCLUSION. Page 31.
11. PART XI. APPENDIX. Page 35.
    a. ORDERS from Florida Courts. Pages 35-38.
    b. Procedural Rule 3.111(b)(1). Page 39.
    c. Florida Statute 27.561. Page 40.
12. CERTIFICATE OF SERVICE. Page 41.

PART Iv TABLE OF AUTHORITIES

Cases Cited:

(1) Argensinger v. Hamlin. 407 U.S. 25, 92 S. Ct. 2006, 32 L. Ed.2d 570 (1972). Page 10, Writ of Certiorari.

(2) Scott v. Illinois, the dissenting opinion by Justices Brennan, Marshall, Stevens and Blackmun. 440 U.S. 367, 99 S. Ct. 1158, 59L Ed 2d 383. Page 10, Writ of Certiorari.

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER 1985

JOHN E. REYNOLDS, III PETITIONER

v.

STATE OF FLORIDA RESPONDENT

PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF FLORIDA.

PART V OPINION BELOW

The Petitioner, John E. Reynolds, III, respectfully prays a writ of certiorari issue to review the judgment of the Supreme Court of the State of Florida, entered on June 20, 1985.

The Supreme Court of the State of Florida denied the Petitioner's petition for rehearing and suggestion for rehearing on June 20, 1985.

This petition is being filed pro se by Petitioner.

PART VI JURISDICTION

The jurisdiction of this court is invoked, because a federal question is at issue, and the Petitioner, John E. Reynolds, III, alleges in this petition for Writ of Certiorari that his rights under the Fifth Amendment, Sixth Amendment, and Fourteenth Amendment of the Constitution of the United States of America were violated by the State of Florida.

PART VII CONSTITUTIONAL PROVISION INVOLVED

(1) United States Constitution, Amendment V (Five):

"Nor shall any person...be deprived of life, liberty, or property, without due process of law...."

(2) United States Constitution, Amendment VI (Six): Under the Constitution's Bill of Rights the accused in a criminal matter is guaranteed "to have the assistance of counsel for his defense."

(3) Petitioner wishes to invoke a third Constitutional provision, that of the Fourteenth Amendment to the United States Constitution.

Petitioner invokes the entirety of the above three Constitutional Amendments, or any part thereof as may be determined applicable by this Court.

PART VIII STATEMENT OF CASE

On June 20, 1985 the Florida Supreme Court dismissed the Petitioner's petition for review. That court refused to exercise its discretionary authority to review the case. Copies of the decision by the Florida Supreme Court, as well as the decisions of all other involved Florida courts, are attached. A succession of lower Florida courts had previously refused to reverse the Petitioner's November 28, 1984 conviction in Escambia County (Florida) Court for allegedly violating a Florida criminal statute.

The Florida law, Petitioner was found guilty of violating, was Florida Statute, Section 316.193, that of "driving/actual physical control with an unlawful blood alcohol level (first offense)."

In addition to the Florida Supreme Court, other Florida courts having previously heard the case were: Escambia County Court, Escambia County Circuit Court of Appeals, and the Florida First District Court of Appeals. (See attached decisions.)

This is a petition, filed timely within sixty days after the decision by the Florida Supreme Court. It is being filed pro se by the Petitioner, who pleads with this Court to please take into consideration that the Petitioner is not an attorney and has no law school education. Petitioner has completed and filed this Writ of Certiorari without assistance of an attorney. Similarly, he has filed lower court appeals.

13 WRIT OF CERTIORARI, FILED PRO SE

Petitioner pleads that this Court grant him, as permissible, the maximum allowable time extensions for filing this Writ, should additional time be necessary for him to correct or file additional material.

Petitioner is presently without financial means to afford an attorney and has borrowed funds to file this appeal. Should this Court choose to hear this case, the Petitioner begs this Court to consider his request that this Court appoint counsel to represent Petitioner, without a fee to Petitioner.

With this Writ of Certiorari the Petitioner has made available to this Court a packet of lower court pleadings, briefs, and related material for review. Petitioner does reaffirm in this Writ of Certiorari the statements and allegations he made in all appeal pleadings he has made to listed Florida courts.

For the sake of brevity in this Writ, the Petitioner has not included some points raised in those lower court appeal pleadings. Nevertheless, the Petitioner still views those points as an integral part of his appeal and asks this Court consider them before making its decision.

Petitioner will now further explain issues involved in the Statement of his Case.

On August 12, 1984 Petitioner was unduly harassed, arrested and charged by Pensacola, Florida police with the misdemeanor violation of Section 316.193 of the Florida Statutes.

Petitioner has continued to maintain he was innocent of the charges both before and after he was charged with the offense. He still insists he is innocent.

On his "Plea Day" in 1984 Petitioner pleaded his innocence before Escambia County (Florida) Court Judge, Frank L. Bell,

Judge Bell was the presiding judge on both the "Plea Day" and during the later trial. In pleading his innocence and asking for a trial by jury, the Petitioner also asked Judge Bell for a court-appointed attorney, explaining to the judge he was indigent and could not afford the cost of an attorney.

HOWEVER, Judge Bell refused to permit the Petitioner to EVEN apply for the services of a public defender or court-appointed attorney. Judge Bell said he was not obligated under Florida law to appoint attorneys for indigent persons accused of misdemeanors, provided he would rule <u>in advance</u> of the trial that he would not sentence the accused defendant to jail, should the defendant be found guilty.

The above refusal by Judge Bell is one of the primary cruxes of this appeal that the Petitioner begs the Court to consider.

Prior to Judge Bell's refusal to appoint an attorney on "Plea Day" in 1984, the Petitioner had been told several days previously to that time that he would certainly be given a chance by the judge to apply for a public defender on his "Plea Day." He was assured of this by an intake clerk in the office of Escambia County Public Defender, Jack Behr. Petitioner was denied an opportunity to speak with Jack Behr or any other attorneys in Mr. Behr's office.

While Judge Bell never cited the Florida statute to Petitioner under which he denied him his Constitutional right to apply for an attorney, the Petitioner later learned from other sources that Judge Bell bases his refusals in such cases on Rule 3.111 (b)(1) of the Florida Rules of Criminal Procedure, under heading "Cases Applicable."

The most pertinent part of that rule states:

"Counsel does not have to be provided to an indigent person in a prosecution for a misdemeanor or violation of a municipal ordinance if the judge, prior to the trial, files in the cause a statement in writing that the defendant will not be imprisoned in the event he is convicted."

The Petitioner has attempted to argue in his written pleadings before Florida Courts that the imposition of Rule 3.111 (b)(1) is totally unconstitutional under the Constitution of the United States, and that it is in violation of the Bill of Rights, Amendment VI (Six). Petitioner also contends that Amendments V (Five) and XIV (Fourteen) of the United States Constitution are violated.

Petitioner has argued in written pleadings before Florida courts that no Florida Judge can possibly predetermine he will absolutely not sentence a defendant to jail.

This would be true, as in Petitioner's case, when the statute under which defendant is charged carries the POSSIBILITY of a jail term. This would be true for any other defendant similarly charged under Florida Criminal Statutes, Section 316.193. Jail is always a possibility for a first offense charge under this statute.

Petitioner alleges as follows:

(1) As charged and later found guilty under Section 316.193, a jail sentence was at all times a possibility for the Petitioner. The Petitioner was placed on six months probation at the end of his trial. Should the Petitioner have failed to meet all probation mandates imposed upon him by Judge Bell, he would surely have been sentenced to jail.

(2) Petitioner also contends that regardless of whether or not a judge should rule a jail term will be imposed, that Rule 3.111 violates Constitutional Amendments.

Those violated Amendments are V, VI and XIV.

In support of the above assertions the Petitioner cites the following cases:

(1) Argersinger v. Hamlin, 407 U.S. 25,92 S. Ct. 2006, 32 L. Ed.2d 570 (1972).

(2) Scott v. Illinois, the dissenting opinion by Justices Brennan, Marshall, Stevens and Blackmun. 440 U.S. 367, 99 S. Ct. 1158,59L Ed 2d 383.

FURTHER, in addition to Rule 3.111 (b) (1), Petitioner maintains that Florida Statutes 27.56 and 27.561, governing the appointment of public defenders, are unconstitutional. (Copies of Rule 3.111 and Statutes 27.56 and 27.561 are attached to this Writ.) Reasons for unconstitutionality of Statutes 27.56 and 27.561 and Rule 3.111 are as follows:

(1) First, none of the above Florida rules and statutes are uniformly enforced by all Florida courts or locales or by all Florida Public Defenders' Offices.

By his telephoning various Public Defenders' Offices in Florida the Petitioner was informed through discussions with attorneys and clerks in those offices that some Florida counties give defendants in misdemeanor cases the option of applying for a public defender, REGARDLESS of whether or not there was to be a predetermination of a possible jail sentence.

(2) Again, based on a discussion with an an attorney in a Public Defender's Office outside of Escambia County, the Petitioner was made aware that some Florida counties do not obligate the defendant to repay the State of Florida for court-appointed counsel in <u>all</u> cases. Petitioner argues that if such laws are to be constitutionally enforced that the laws should be <u>uniformly</u> enforced in <u>all</u> cases and in <u>all</u> jurisdictions in Florida. For Florida to continue to do otherwise is unconstitutionally discriminatory.

(3) Petitioner also argues that Florida Statute 27.561 is unconstitutional under the United States Constitution, as it empowers the State of Florida to jail guilty defendants who do not repay the State for the cost of their representation by court-appointed counsel or public defender, and this can be done without due process of law as guaranteed by the Fifth Amendment of the United States Constitution. The law wrongly permits Florida courts unjust discretion in whether or not a guilty defendant, who defaults on repayment for his court-appointed counsel or public defender, is to be jailed for contempt.

Section 27.561 (2) states:

"Unless the defendant-recipient or parent shows that default was not attributable to an intentional refusal to obey the order of the court or to a failure on his part to make a good faith effort to make the payment, the court may find that his default

constitutes contempt and order him committed until the attorney's fees or costs, or a specified part thereof, are paid or may take any other action appropriate under the circumstances, including revocation of probation."

Judge Frank L. Bell did refuse at Petitioner's "Plea Day" to appoint Petitioner a public defender or court-appointed counsel. Judge Bell <u>again</u> refused to appoint a public defender or court-appointed counsel for Petitioner <u>after</u> the Petitioner was found guilty and stated his wish to the judge that he be allowed such counsel to appeal his verdict to the Escambia County (Florida) Circuit Court of Appeals.

The Petitioner again informed Judge Bell that due to the Petitioner being innocent and due to serious errors allegedly committed by Judge Bell in the Petitioner's case and trial that he believed he could not adequately appeal without an attorney.

23 WRIT OF CERTIORARI, FILED PRO SE

Prior to the November 28, 1984 trial Petitioner did eventually employ a private attorney after a statement made to Petitioner on "Plea Day" by Judge Bell. On that day Judge Bell did sternly warn Petitioner (defendant) that he should hire a private attorney soon. Petitioner, who had no income or job, borrowed $1,500, which he could not financially afford, in order to retain Pensacola, Florida attorney, David B. Ackerman. Petitioner has nevertheless contended in all his Florida court appeals that he was not afforded adequate counsel, either by David B. Ackerman or by the State of Florida.

Judge Frank L. Bell did show prejudice against the Petitioner and did not afford Petitioner a fair trial, as guaranteed by the Fifth and Sixth Amendments to the United States Constitution, BECAUSE Judge Bell permitted the substitution of an unprepared attorney less than 90 minutes before trial.

Petitioner alleges he should have been given, but was not given, the option by Judge Bell of having a trial continuance to a later date when Mr. Ackerman might have been recuperated from a supposed illness. Substituted attorney, F.T. Ratchford, of Pensacola, Florida, was told by Mr. Ackerman only the evening before the trial that he would definitely need to represent the Petitioner at the next morning's trial, due to Mr. Ackerman's alleged illness. Only a few days previously, Mr. Ackerman had informed his client (Petitioner) that Judge Bell had ruled there could be no further trial continuances. THEREFORE, Petitioner was obliged to either accept attorney substitution or appear in court the next morning with absolutely no counsel.

While Mr. Ackerman assured Petitioner Mr. Ratchford was well-prepared for the relatively complicated, day-long trial, I allege Mr. Ratchford was not trial ready.

While Mr. Ratchford did review case material hours before the trial, in reality Mr. Ratchford was ill-prepared and did not give Petitioner the adequate counsel to which he was constitutionally entitled, the Petitioner alleges.

THEREFORE, Petitioner contends he was not afforded the right to a fair trial as guaranteed by the Constitution of the United States.

AND while the Petitioner was finally able to borrow from a relative the considerable sum of $1,500 to retain an attorney, Petitioner has been unable to repay the loan within the intended time frame. The unfair necessity to borrow the money has caused an undue hardship on Petitioner.

With Judge Bell again making the decision, Petitioner was denied a court-appointed attorney or public defender during the initial stages of his appeal to the Escambia County Circuit Court of Appeals.

To be within the filing time frame, Petitioner had to file his verdict appeal to that court without the assistance of counsel. I filed detailed, written pleadings and briefs pro se.

Neither would Judge Bell or the Escambia County Circuit Court of Appeals waive the filing fee for the indigent Petitioner, who had to borrow funds for the filing fee.

Petitioner was informed by a Florida attorney, in private practice, that an indigent defendant found guilty of a Florida criminal offense is permitted by law the use of court-appointed counsel for his appeal, provided he was not previously permitted court-appointed counsel for that offense.

Several weeks after Petitioner filed his pro se pleadings with the Escambia County Circuit Court of Appeals that court finally permitted Petitioner to apply for a public defender.

At this late stage of the appeal, however, Petitioner alleges irreparable damage had already been done by the Florida courts with respect to Petitioner's chances for a successful appeal.

Petitioner was unable to sign two different combination financial disclosure/ application forms for a public defender due to the following reasons:

(1) Escambia County (Florida) Public Defender, Jack Behr, sent Petitioner one such public defender application form. Petitioner found this form objectionable, because it required him to agree to the following untrue statement: "I have talked with a representative of the Public Defender who has explained to me the following: If I am found guilty by the Court or a jury, or if I plead guilty or nolo contendre and I have been represented by the Public Defender's Office or a court-appointed attorney,

then there will be a lien placed against me in the name of the county where I was represented. This amount will be determined by the court and will cover attorney's fees and costs incurred by the county for my defense. The lien is enforceable against all my property and my estate. If I am a minor under the age of eighteen, the lien is enforceable against the property and estate of my parents."

Underlined in the above paragraph is the part of the financial disclosure statement that the Petitioner initially found to be most objectionable. No one in the Public Defender's Office EVER explained the above statement concerning liens to me, the Petitioner. Therefore, Petitioner would have been making an untrue statement, had he signed the financial disclosure form.

(2) Another application form was sent to Petitioner by Escambia County Circuit Court Judge, Lacey Collier.

This form was to be completed and signed by Petitioner in order that Petitioner might apply for a public defender, but the form differed from the one previously sent by Jack Behr.

Petitioner argued in a subsequent appeal that this form unfairly and unconstitutionally discriminated against adult defendants and Petitioners by giving special concessions to the adult parents or guardians of juvenile defendants. For adult defendants the form was akin to signing a "blank check." And the form made the following special concession to parents or guardians of juvenile defendants:

"FOR JUVENILE DEFENDANTS:

I (we) the undersigned parent(s) / legal guardian(s) of the above affiant who is a minor, understand that, by law, I (we) shall be liable for costs of representation by the Public Defender in an amount not to

exceed $1,250 and which charge may be imposed in the form of a lien which shall be enforceable by law and/or contempt proceedings."

In his March 5, 1985 appeal to the Escambia County Circuit Court of Appeals, Petitioner (appellant) stated: "John Elbert Reynolds, III should not be obligated to possibly satisfy a lien having no cap or upper limits, while the parent(s) or legal guardian of a juvenile defendant are obligated to repay no more than $1,250."

(3) Due to my prior alleged grossly unfair treatment by the Florida courts regarding my case, the Petitioner was also fearful to be obligated to repayment to a possibly sizeable and unspecified sum of money to the county or state for court-appointed representation. I was fearful that I might be financially unable to repay such services at some future date due to my unsound financial condition.

I contend I was justified in my fear that the State of Florida or a Florida court might unfairly and unconstitutionally jail me for my inability to repay. As Petitioner I said that such a law could unconstitutionally be misused to establish debtors' prisons.

REASON FOR GRANTING THE WRIT PART XIX

Petitioner has exhausted all other avenues of remedy.

I feel that this is an issue of utmost importance, affecting not only myself but possibly thousands of other indigent Florida defendants. And I am furthermore convinced this issue should be addressed by the United States Supreme Court.

PART X CONCLUSION

Petitioner, John E. Reynolds, III, begs that the United States Supreme Court act upon this Writ of Certiorari. Petitioner pleads with this Court to remedy the unfair

and unconstitutional treatment dealt him by the Florida Judicial System, Escambia County (Florida) Public Defender's Office and Pensacola (Florida) Police.

I continue to maintain I am innocent. I was and am innocent of the charges lodged against me under Florida Statutes, Section 316.193.

I plead with this Court to overturn and nullify my guilty verdict / sentence under the above statute in Escambia County (Florida) Court. I further plead that this Court order all fines and court and other costs refunded to me by Florida, including a reimbursement of $1,500 in borrowed funds I paid to a private attorney as counsel.

I also request that the United States Supreme Court declare as unconstitutional under the Constitution of the United States the Following Florida laws or statutes: Rule 3.111 of the Florida Rules of

Criminal Procedure; AND Florida criminal statutes regarding the appointment of public defenders and court-appointed counsel for indigent defendants, which are Statutes 27.56 and 27.561.

The selective enforcement or implementation of the above-mentioned laws and the very underhanded and discriminatory nature of these laws should render them unconstitutional.

Petitioner has submitted an abundance of pleadings to Florida courts and can submit upon request any additional material in his possession to this Court.

Petitioner wishes to apologize to this Court for any errors that might be contained in this Writ of Certiorari, a copy of which will be sent to the Florida Attorney General's Office. Furthermore, I wish to ask the Court's indulgence and understanding for any lack of knowledge I might exhibit

concerning all procedures in filing this Writ of Certiorari.

Petitioner, John E. Reynolds, III, wishes this Court to please take note that he is one and the same person as John Elbert Reynolds, III, the appellant and defendant as referred to in Florida Court documents concerning his case.

Respectfully submitted,

John E. Reynolds III

John E. Reynolds, III
P.O. Box 20232
Birmingham, Alabama 35216
Phone: (205) 822-8699

PART XI APPENDIX

Set forth on this and the following three pages are quotes from the bodies of orders issued by the four Florida courts involved in this case. No court opinions accompanied such orders of appeals.

a. ORDER

Case of John E. Reynolds, III, defendant, vs. State of Florida; Escambia County (Florida) Court; Judge Frank L. Bell, presiding judge. On November 28, 1984 defendant was found guilty of "driving/actual physical control with an unlawful blood alcohol level."

Sentence by Judge Bell included fine, six months probation and traffic school, as well as an order defendant pay court and other costs.

Quoted below is the body of order, re-typed for purposes of this Writ, of the Circuit Court of Escambia County, Florida. Order was for case: John Reynolds, appellant, v. State of Florida, appelee; Case Number, 84-5864; On appeal from the County Court, Escambia County, Florida.

a. ORDER

"THIS CAUSE is before the undersigned panel on appeal from the County Court, Escambia County, Florida. The Court having reviewed the brief of Appellant and being otherwise fully advised in the premises, it is

"ADJUDGED that the verdict, judgement, and sentence in the County Court is affirmed per curiam.

"ORDERED at Pensacola, Escambia County, Florida, this 28th day of March, 1985."

"Iacey A. Collier
Circuit Judge

William S. Rowley
Circuit Judge

William H. Anderson
Circuit Judge"

37 WRIT OF CERTIORARI, FILED PRO SE

Quoted below is the body of order, re-typed for purposes of this Writ, of the Florida First District Court of Appeal, Tallahassee, Florida. Order issued May 28, 1985. Case Number BG-122 . Parties to case: John E. Reynolds, Appellant/Petitioner, vs. State of Florida, Appellee/Respondent. On Appeal from Escambia County, Florida Circuit Court.

a. ORDER

"The notice of appeal and "appeal brief" of appellant is treated as a petition for writ of certiorari and, as such, is denied."

"By Order of the Court

"Raymond E. Rhodes, Clerk"

WRIT OF CERTIORARI, FILED PRO SE

Quoted below is the body of order, re-typed for purposes of this Writ, of the Supreme Court of Florida, Tallahassee, Florida. Order issued June 20, 1985. Case Number 67,193. Parties to case: John E. Reynolds, III, Petitioner, vs. State of Florida, Respondent. On appeal from Florida First District Court of Appeal.

a. ORDER

"It appearing to the Court that it is without jurisdiction, the Petition for Review is hereby dismissed.

"No Motion for Rehearing will be entertained by the Court."

"A True Copy

TEST:

Sid J. White,

Clerk Supreme Court"

b. QUOTE FROM

FLORIDA "RULES OF CRIMINAL PROCEDURE"

Rule 3.111 (b)(1)

"(b) Cases Applicable.

"(1) Counsel shall be provided to indigent persons in all prosecutions for offenses punishable by imprisonment (or by incarceration in a juvenile corrections institution) including appeals from the conviction thereof. Counsel does not have to be provided to an indigent person in a prosecution for a misdemeanor or violation of a municipal ordinance if the judge, prior to trial, files in the cause a statement in writing that the defendant will not be imprisoned in the event he is convicted."

c. QUOTE FROM

FLORIDA STATUTES, "STATE ATTORNEYS AND PUBLIC DEFENDERS. Ch. 27, F.S. 1982"

"27.561 Effect of nonpayment.--

"(1) Whenever a defendant-recipient or parent is ordered to pay attorney's fees or costs, default in the payment thereof shall be cause for finding the defendant-recipient or parent in contempt of court, and the court may issue a show-cause citation or a warrant of arrest for the defendant-recipient's or parent's appearance.

"(2) Unless the defendant-recipient or parent shows that default was not attributable to an intentional refusal to obey the order of the court or to a failure on his part to make a good faith effort to make the payment, the court may find that his default constitutes contempt and order him committed until the attorney's fees or costs, or a specified part thereof, are paid or may take any other action appropriate under the circumstances, including revocation of probation."

41

CERTIFICATE OF SERVICE

JOHN E. REYNOLDS, III PETITIONER

v.

STATE OF FLORIDA RESPONDENT

This to to certify that 3 (three copies) of the above case, in bound form, prepared under rule 33 of United States Supreme Court Rules, have been mailed to the Attorney General, State of Florida, Tallahassee, Florida 32301. Such copies are being mailed first class on this, the 11th day of September, 1985 by Petitioner.

John E. Reynolds III

JOHN E. REYNOLDS, III

P.O. Box 20232

Birmingham, Alabama 35216

NOTARIZED BY Cheryl L. Lawson

DATE September 11, 1985

Commission Expires September 4, 1989.